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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,339	01/23/2004	Sergey N. Razumov	59036-039	4969

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McDERMOTT, WILL & EMERY
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Washington, DC 20005-3096

EXAMINER

ALMATRAHI, FARIS S

ART UNIT	PAPER NUMBER
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3627

MAIL DATE	DELIVERY MODE
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12/10/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/762,339	Applicant(s) RAZUMOV, SERGEY N.	
	Examiner FARIS ALMATRAHI	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 16-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01/23/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of the Application

1. **Claims 1-38** are pending in this application.
2. **Claims 16-38** are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected inventions II-IV.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. **Claims 1-15** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. **Claim 1** recites the limitation "a server configured for receiving the request and enabling the purchaser to locate a retail network node at which the requested item is available, the node being provided outside a local retail network corresponding to the point of sale selected for delivery, a path being arranged for routing the item from the node to the selected point of sale". The limitation as phrased is viewed to be vague and indefinite because it is unclear what the applicant is referring to. It is unclear what the applicant is implying as being delivered. Also, it is unclear what the phrase "a path being arranged for routing the item from the node to the selected point of sale" is

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implying or limiting. Applicant is requested to construct claims eliminating ambiguity and clarifying what he is referring to.

6. **Claim 2** recites the limitation "a first server associated with a selected node of the retail network located outside a regional network having the point of sale selected for delivery, and configured for receiving the request if the item is not available in the regional network, the first server being further configured for arranging a delivery path for delivery the item from the selected node to the selected point of sale". The limitation as phrased is viewed to be vague and indefinite because it is unclear what the applicant is referring to. It is unclear what the applicant is implying as being delivered. Also, the phrase "receiving the request if the item is not available in the regional network" is viewed to be vague and indefinite because it stipulates a conditional limitation.

Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. Applicant is requested to construct claims eliminating ambiguity and clarifying what he is referring to.

7. **Claim 14** recites the limitations "the district distribution node". There is insufficient antecedent basis for this limitation in the claim. Applicant did not specify as to what "distribution node" he is referring to.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. **Claims 1-15**, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Perkowski (US Publication No. 2003/0009392 A1).
10. Perkowski shows a system for processing orders supported by multiple retail networks and comprising a client terminal for sending a request providing indication of an item being purchased and indication of a point of sale selected for delivery of the item, together with an identifier of a purchaser (Abstract), the system comprising: a server configured for receiving the request and enabling the purchaser to locate a retail network node at which the requested item is available, the node being provided outside a local retail network corresponding to the point of sale selected for delivery, a path being arranged for routing the item from the node to the selected point of sale (Abstract, Figure 2, Paragraphs [0107], [0232], [0416], [1002]). A second server configured for arranging a return path for return of an item returned by a customer from a point of sales selected by the customer for return to a selected node (Figure 2, Paragraphs [0107], [0232]). A two-directional transfer of goods between regional node and selected node (Figure 2).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faris Almatrahi whose telephone number is (571) 270-3326. The examiner can normally be reached on Monday to Friday 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on (571) 272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Faris Almatrahi/
Examiner, Art Unit 3627

FA

/F. Ryan Zeender/
Supervisory Patent Examiner, Art Unit 3627